

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11809 of 2002

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

GOMANBHAI HIRABHAI

Versus

NARANBHAI HIRABHAI & ANR.

Appearance:

MR AMIT V THAKKAR for the Petitioner
MR CL SONI for Respondents Nos. 1-2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 21/04/2003

ORAL JUDGEMENT

Heard the learned advocates.

RULE returnable today. The learned advocate Mr.C.L.Soni waives service of rule.

The present petition under Article 227 of the Constitution of India arises from a suit for partition of joint family property being Special Civil Suit No.322/1987 pending before the learned Civil Judge (S.D.), Surat. Pending the said suit, under Application Ex.159 the plaintiff - petitioner applied for leave to implead the sisters as party defendants. The said application has been dismissed on the grounds of delay and laches and also on the ground that the presence of the sisters in the suit for partition is not required.

On the facts and in the circumstances of the case the writ petition is allowed. The impugned order dated 28th February, 2002 made by the learned Civil Judge (S.D.), Surat below Application Ex.159 in Special Civil Suit No.322/1987 is quashed and set aside. The said Application Ex.159 is granted. The five sisters named in paragraph No.1 of the Application Ex.159 are allowed to be impleaded as party defendants in Special Civil Suit No.322/1987. Rule is made absolute. There shall be no order as to costs. The sum of Rs.5,000=00 deposited in this Court shall be remitted to the petitioner herein.

(Ms. R.M. Doshit, J.)

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